

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

UNITED STATES OF AMERICA)
Plaintiff,) 2:02-cr-0337-LRH-RJJ
v.)
JIMMY LEUNG,) ORDER
Defendant.)

Before the court is defendant Jimmy Leung’s (“Leung”) request for a certificate of appealability. Doc. #190.

On June 13, 2002, Leung was arrested as part of a counterfeit cashier's check sting operation. Following his arrest, Leung was indicted on six separate charges: (1) conspiracy; (2) counterfeited securities; (3) fraudulent use and possession of identification documents; (4) fraudulent use of a credit card; (5) bank fraud; and (6) aiding and abetting. Leung proceeded to trial and was convicted by a jury on counts one, two, three and five. Doc. #102.

Leung appealed his conviction and sentence. Doc. #142. The Ninth Circuit denied Leung's claims and affirmed his conviction and sentence. Doc. #160. In response, Leung filed a motion to vacate, set aside, or correct his sentence pursuant to 28 U.S.C. § 2255 (Doc. #166) which was denied by the court (Doc. #184). Leung appealed the denial of his § 2255 motion. Doc. #188. Thereafter, Leung filed the present request for a certificate of appealability. Doc. #190.

Under the Antiterrorism and Effective Death Penalty Act of 1996 (“AEDPA”), “an appeal may not be taken to the court of appeals from . . . the final order in a proceeding under section 2255” unless a district court issues a certificate of appealability (“COA”) based on “a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(1)(B).

Here, the court finds that Leung has not shown a denial of a constitutional right in his § 2255 motion. In the court’s order denying his § 2255 motion, the court noted that Leung failed to raise several issues argued in his motion on direct appeal, and was therefore precluded from raising them on collateral review. *See* Doc. #184. Thus, the court was not presented with any cognizable constitutional issues in his motion.

Further, Leung has failed to demonstrate that reasonable jurists would find the court's assessment of his claims debatable or wrong. *See Allen v. Ornoski*, 435 F.3d 946, 950-951 (9th Cir. 2006). Therefore, the court shall deny Leung's request for a COA on his motion to vacate or correct sentence pursuant to 28 U.S.C. § 2255.

IT IS THEREFORE ORDERED that defendant's request for a Certificate of Appealability (Doc. #190) is DENIED.

IT IS SO ORDERED.

DATED this 28th day of August, 2012.

**LARRY R. HICKS
UNITED STATES DISTRICT JUDGE**